

Maine Revised Statutes
Title 5: ADMINISTRATIVE PROCEDURES AND SERVICES
Chapter 375: MAINE ADMINISTRATIVE PROCEDURE ACT

§8056. FILING AND PUBLICATION

1. Requirements. With respect to every rule adopted, the agency shall:

A. Submit the rule to the Attorney General for approval as to form and legality; [1977, c. 551, §3 (NEW).]

B. File the original rule as signed by the Attorney General or an assistant attorney general and the authorized representative of the agency, and the statement required by section 8052, subsection 5, with the Secretary of State in a form prescribed by the Secretary of State, which form is susceptible to frequent and easy revision.

(1) Through rulemaking, an agency may incorporate by reference all or any part of a code, standard, rule or regulation that has been adopted by an agency of the United States or of this State or by a nationally recognized organization or association.

(2) The reference in the agency rules must fully identify the incorporated matter by exact title, edition or version and date of publication.

(3) The rules must state where copies of the incorporated matter are available at cost from the agency issuing the rule or where copies are available from the agency of the United States, this State or an organization or association originally issuing that matter.

(4) An agency incorporating a matter by reference shall submit a copy of the incorporated matter to the Secretary of State; [1999, c. 261, §1 (AMD).]

C. Supply, without cost or at actual cost, copies of each such rule to any person who has filed with the agency within the past year a written request to be supplied with all copies of the agency's rules; and [1981, c. 524, §11 (AMD).]

D. Publish, pursuant to the procedures set forth in section 8053, subsection 6, a notice containing the following information: A statement that the rule has been adopted, its effective date, a brief description of the substance of the rule, and the address where a copy may be obtained. [2011, c. 380, Pt. NNN, §2 (AMD).]

[2011, c. 380, Pt. NNN, §2 (AMD) .]

2. Form. With respect to every rule adopted by the agency and in effect, the agency shall print and compile and make available to any person, at each of its offices, for inspection at no charge and for copying with or without cost, as the agency shall determine, and for distribution free or at actual cost, complete sets of such rules currently in effect.

[1977, c. 551, §3 (NEW) .]

3. Secretary of State. The Secretary of State shall:

A. Maintain and make available at the Secretary of State's office, for inspection at no charge and for copying or purchase, current copies of complete rules for all agencies filed in accordance with subsection 1, paragraph B; [1995, c. 373, §7 (AMD).]

A-1. Compile, edit, index and arrange for publication and distribution all current rules of state agencies as available resources permit. Compilations must be supplemented or revised at least annually; [1993, c. 362, §4 (AMD).]

A-2. Publish an annual list of current rules of state agencies; [1993, c. 362, §5 (NEW).]

B. Supply, at actual cost, annually updated copies of complete sets of rules of an agency to any person who has filed with the Secretary of State within the past year a written request for such sets of rules; and [1991, c. 541, §1 (AMD).]

C. Codify all current state agency rules in an electronic text file data base, in consultation with affected state agencies and in accordance with subsections 7 and 8, as available resources permit. [1991, c. 541, §1 (NEW).]

[1995, c. 373, §7 (AMD) .]

4. Additional requirements. The requirements of subsection 2 shall additionally be applicable to the agency's forms, instructions, explanatory statements and other items defined in section 8002, subsection 9, paragraph B, subparagraph (4).

[1977, c. 551, §3 (NEW) .]

5. Record of vote. In addition to the foregoing, each agency shall keep, at its principal office, and make available for inspection to any person a record of the vote of each member of the agency taken in rule-making proceedings.

[1977, c. 551, §3 (NEW) .]

6. Attorney General review and approval. The review required in subsection 1 may not be performed by any person involved in the formulation or drafting of the proposed rule. The Attorney General may not approve a rule if it is reasonably expected to result in a taking of private property under the Constitution of Maine unless such a result is directed by law or sufficient procedures exist in law or in the proposed rule to allow for a variance designed to avoid such a taking.

[1995, c. 537, §6 (AMD) .]

7. Codification of rules. The Secretary of State, in consultation with affected state agencies, shall develop a plan to codify all current rules of state agencies within its available resources. The codified rules must be maintained on an electronic text file data base. To develop the electronic text file data base, agencies may refile an existing rule or parts of an existing rule. If an agency refiles a rule or portion of a rule:

A. The agency may not make at the time of refiling any substantive changes in that rule or portion of that rule; and [1991, c. 554, §2 (NEW).]

B. The refiled rule or portion of the rule must be adopted in accordance with the Maine Administrative Procedure Act except that public comment on the refiling under section 8057-A, subsection 3 is limited to documenting where the refiled rule or portion of the rule is substantively different from the existing rule. [1991, c. 554, §2 (NEW).]

[1991, c. 554, §2 (NEW) .]

8. Electronic text file procedures. Under subsection 1, the Secretary of State may establish by rule in accordance with the Maine Administrative Procedure Act procedures and criteria for the filing of rules in electronic text file format.

[1991, c. 554, §2 (NEW) .]

9. Certification of published rules. The Secretary of State may certify that a publication of the codified rules and any supplements or replacement volumes to that publication are a correct transcript of the text of the original rules.

A. Certified publications must contain a printed certificate of the Secretary of State stating that the publication is the official copy. A facsimile of the signature of the Secretary of State imprinted by or at the direction of the Secretary of State has the same validity as a written signature of the Secretary of State. [1991, c. 554, §2 (NEW).]

B. A publication of the rules certified by the Secretary of State constitutes prima facie evidence of the rules. [1991, c. 554, §2 (NEW).]

C. Any publication of a rule or rules that is not certified by the Secretary of State:

- (1) May neither state nor imply that the publication is an official copy of the rules; and
- (2) Must state in a conspicuous location where the Secretary of State's certified copy is located. [1991, c. 554, §2 (NEW).]

[1991, c. 554, §2 (NEW) .]

10. Minor errors. The Secretary of State may correct minor, nonsubstantive errors in spelling and format in proposed or adopted rules if the agency is notified.

[1993, c. 362, §6 (NEW) .]

SECTION HISTORY

1977, c. 551, §3 (NEW). 1979, c. 425, §§8,9 (AMD). 1981, c. 524, §§11-13 (AMD). 1985, c. 39, §3 (AMD). 1991, c. 554, §§1,2 (AMD). 1993, c. 362, §§4-6 (AMD). 1995, c. 373, §§6,7 (AMD). 1995, c. 537, §6 (AMD). 1999, c. 261, §1 (AMD). 2011, c. 380, Pt. NNN, §2 (AMD).

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